



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Lowell Saltonstall Building,

100 Cambridge Street, Boston 02204

September 28, 1983

In 1982, you ("W") and your husband ("H") were non-residents. W was employed in Massachusetts; H was not employed in Massachusetts. H had no income subject to Massachusetts taxation. W's 1982 Massachusetts gross income was 56% of the combined federal gross income of W and H. Their 1982 child care expenses were \$3,500. W inquires whether they are entitled to the Massachusetts child care deduction and, if so, how much of their child care expenses they are entitled to deduct.

For purposes of calculating his 1982 Massachusetts child care expense deduction, a resident may deduct an amount equal to five times the child care credit that was allowable under Section 44A of the 1954 Internal Revenue Code as amended on November 6, 1978. (G.L. c. 62, § 3(B)(a)(7)).

If non-residents qualify for the federal child care credit and if the related employment income is subject to Massachusetts taxation, they are entitled to a Massachusetts child care expense deduction. For taxable year 1982, non-residents may take a deduction equal to a resident's child care expense deduction multiplied by a fraction in which the numerator is the non-residents' Massachusetts gross income and the denominator is the total of the non-residents' Massachusetts and non-Massachusetts gross incomes.

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Under the Code as amended in 1978, an individual could take a federal tax credit of 20% of the amount he paid someone to care for his dependent under the age of 15, his disabled dependent or his disabled spouse, so that he could work. (I.R.C. § 44A). To compute this federal tax credit, an individual could use up to \$2,000 of his expenses if he had one qualifying dependent and up to \$4,000 of his expenses if he had two or more qualifying dependents. (I.R.C. § 44A(d)). An individual's federal tax credit could not be more than \$400 if he had one dependent, or \$800 if he had two or more dependents.

Under the Code as amended in 1978, if an individual was not married at the close of the taxable year, the amount of child care expenses which could be applied towards the federal credit could not exceed the individual's earned income for such year. If an individual was married at the close of the taxable year, the amount of child care expenses which could be applied towards the credit could not exceed the lesser of such individual's earned income or the earned income of his spouse for such year. (I.R.C. § 44A(e)).

Based upon the foregoing it is ruled that, for purposes of the 1982 Massachusetts deduction for child care expenses, you may deduct 56% of five times the federal child care credit allowable under the Internal Revenue Code as amended on November 6, 1978.

The Massachusetts child care deduction was increased, for taxable years commencing on or after January 1, 1983, to an amount equal to employment-related expenses allowed for purposes of determining the credit allowable under Section 44A of the Internal Revenue Code as amended on February 1, 1983. (Chapter 233 of the Acts of 1983, Section 19). This change does not apply to the 1982 Massachusetts child care deduction.

Very truly yours,



Commissioner of Revenue

IAJ:VGS:mf